

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ERIC STEPHEN PARNELL	§	
v.	§	CIVIL ACTION NO. 9:08cv192
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Eric Parnell, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Parnell was convicted, on his plea of guilty, of the offense of capital murder, and was sentenced to life in prison. He contended that: he received ineffective assistance of counsel; he was “abandoned” by his attorneys when they told him that they “would not represent him” if he insisted on going to trial; he gave an involuntary statement to police as a result of being beaten; and his attorneys told him that the beating “did not matter” and that they would not bring it up at trial.

The Magistrate Judge ordered the Respondent to answer the petition. In his answer, the Respondent argues that Parnell received effective assistance of counsel and pleaded guilty voluntarily. Parnell did not file a response to the answer.

After review of the pleadings and the state court records, the Magistrate Judge issued a Report recommending that the petition be dismissed with prejudice and that Parnell be denied a certificate of appealability *sua sponte*. Parnell did not file objections to the Report; instead, he filed a notice of appeal, which did not set out any specific objections to the proposed findings or conclusions of the Report. Parnell’s appeal was dismissed on September 3, 2009 because Reports

of the Magistrate Judge are not appealable, but to date he still has not filed any objections to the proposed findings or conclusions of the Report. Accordingly, Parnell is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly


ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Eric Stephen Parnell is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this action are hereby DENIED.

**SIGNED** this the **20** day of **November, 2009**.

  
Thad Heartfield  
United States District Judge